



County of San Bernardino

F A S

STANDARD CONTRACT

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code KELLYTE762	SC Dept. PUR	A Contract Number			
County Department Purchasing		Dept. PUR	Orgn. PUR			
Contractor's License No.						
County Department Contract Representative Allen Sanchez		Telephone 387-2065				
Total Contract Amount \$900,000						
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input checked="" type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code 96199		Contract Start Date 1/1/05	Contract End Date 12/31/07			
Original Amount \$900,000		Amendment Amount				
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Project Name				Estimated Payment Total by Fiscal Year		
				FY	Amount	I/D

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name

KELLY SERVICES, INC.

hereinafter called Vendor

Address

1950 S Sunwest Lane, Suite 104

San Bernardino, CA 92408

Telephone

(909) 381-4581

Federal ID No. or Social Security No.

38-1510762

IT IS HEREBY AGREED AS FOLLOWS:

This Agreement is entered into as of this 1st day of January 2005 between KELLY SERVICES, INC. "Vendor" and the County of San Bernardino "County".

RECITALS

WHEREAS, County desires to designate Vendors of Choice to provide Temporary Help Services to all County departments; AND

WHEREAS, County conducted a competitive process to find vendors able to provide the necessary services, AND

WHEREAS, KELLY SERVICES, INC. has been evaluated by a committee consisting of user departments and by the County Purchasing Department (hereinafter referred to as "Purchasing") and determined to have the necessary skills to provide services under the terms and conditions provided herein,

NOW, THEREFORE, the parties hereto enter into this Agreement as a full statement of their respective responsibilities during the term of this Agreement, and in consideration of the representations made above and the covenants and conditions set forth herein, the parties agree as follows:

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Term of Agreement

The term of this agreement is for three (3) years, beginning January 1, 2005 and ending December 31, 2007, for an amount not to exceed \$300,000 per contract year, unless terminated earlier as provided in this section.

1. The COUNTY reserves the right to terminate the entire agreement with a thirty- (30) day written notice of termination in the event the VENDOR does not perform service in a satisfactory manner.
2. The COUNTY and the VENDOR each reserve the right to terminate the agreement, for any reason, with a sixty- (60) day written notice of termination. Such termination may include all or part of the services described herein.
3. The Director of Purchasing for the County of San Bernardino shall have the right to exercise the COUNTY'S authority under this agreement including the right to give notice of termination on behalf of the COUNTY at his sole discretion.

Vendor Responsibilities

Following are the duties to be performed by each Vendor and staff:

1. Interview each department in the County (as needed) to determine the needs of the department and the qualifications necessary to fill the needs.
2. Provide personnel to departments within 24 hours after the department has sent in request to Vendor or notify the department as to the time a temporary can be provided.
3. If no temporary can be found within 24 hours and placed in service within 72 hours this job placement request will be sent to an alternate Vendor.
4. Provide and input data into the County's "Usage Report Input System", (U.R.I.S.) The data input into this system will be used by the Assistant County Administrative Officer (ACAO), Assistant County Administrators (ACAs), and Purchasing to track all activity during that month. This report shall contain the minimum following information:
 - i. Usage report by department. Showing the breakdown by job classification, pay rate, bill rate, hours worked, hours worked overtime, location of personnel, assignment start date, summation of hours and invoiced amount for department, summation for County as a whole.
 - ii. Identification of any peak load, temporary absence, or emergency other than a labor dispute for which Vendor's temporary personnel are within two (2) weeks of reaching the ninety- (90) day limit.
 - iii. Written notification to the ACAO, ACAs, Purchasing, and Risk Management of problems with personnel (i.e. injuries, theft, etc.) as soon after they occur as possible.
5. ACAs will be responsible to ensure compliance with Government Code Section 31000.4 for their respective departments. The ACAO will be responsible for coordinating compliance with all other departments, including elected officials and non-represented department heads.

Temporary Help Qualifications

Each temporary help person referred for placement with the County must meet these minimum qualifications:

1. Citizenship: Must be a citizen of the United States of America or a legal alien in the United States of America.
2. References: Must provide written references to the Vendor from previous employers substantiating skills and character.
3. Experience: Must have had previous experience or training preparation to competently and adequately perform the job.
4. Health screening: Must provide TB testing, Hepatitis B vaccinations and health exams for all positions at ARMC, Public Health, and Behavioral Health as required by law.
5. The Vendor guarantees that the temporary help services will be satisfactory to the County. If the County is dissatisfied with the Vendor's service, the County has the right to terminate and may terminate the contract resulting from this proposal.

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General Terms and Conditions

Subcontracting

VENDOR agrees not to enter into any subcontracts for work contemplated under the Contract without first obtaining written approval from the COUNTY. Any subcontractor shall be subject to the same terms and conditions as VENDOR. VENDOR shall be fully responsible for the performance and payments of any subcontractor's contract.

Contract Assignability

Without the prior written consent of the COUNTY, the Contract is not assignable by VENDOR either in whole or in part.

Contract Amendments

VENDOR agrees any alterations, variations, modifications, or waivers of the provisions of the Contract shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the required persons.

Termination for Convenience

The COUNTY for its convenience may terminate the Contract in whole or in part upon thirty (30) calendar day's written notice. The COUNTY and the VENDOR each reserve the right to terminate the agreement, for any reason, with a sixty- (60) day written notice of termination. Such termination may include all or part of the services described herein. Payment will be made to the VENDOR for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of a termination notice VENDOR shall promptly discontinue services unless the notice directs otherwise. Vendor shall deliver promptly to County and transfer title (if necessary) all completed work, work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

Attorney Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under Section IV INDEMNIFICATION AND INSURANCE REQUIREMENTS.

Venue

The venue of any action or claim brought by any party to the Contract will be the Central District Court of San Bernardino COUNTY. Each party hereby waives any law or rule of the court which would allow them to request or demand a change of venue. If any action or claim concerning the Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to San Bernardino COUNTY.

Jury Trial Waiver

VENDOR and COUNTY hereby waive their respective rights to trial by jury for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either VENDOR against COUNTY or COUNTY against VENDOR on any matter arising out of, or in any way connected with, this Contract, the relationship of VENDOR and COUNTY, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Licenses and Permits

VENDOR shall ensure that it has all necessary licenses and permits required by Federal, State, COUNTY and municipal laws, ordinances, rules and regulations. The VENDOR shall maintain these licenses and permits in effect for the duration of the Contract. VENDOR will notify COUNTY immediately of loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in immediate termination of the Contract.

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Labor Laws

VENDOR shall strictly adhere to the applicable provisions of the Labor Code regarding the employment of apprentices; minimum wages; travel and subsistence pay; retention and inspection of payroll records; Workers' Compensation; payment of wages. If applicable, the VENDOR shall forfeit to the COUNTY the penalties prescribed in the Labor Code for violations.

Notification Regarding Performance

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under the Contract, the VENDOR shall notify the COUNTY within one- (1) working day, in writing and by telephone.

Conflict of Interest

Vendor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Vendor or officer or employee of the Vendor.

Improper Consideration

Vendor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding the Contract.

The County, by written notice, may immediately terminate any Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a Contract has been awarded.

Vendor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Vendor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

Inaccuracies or Misrepresentations

If in the course of the RFP process or in the administration of a resulting Contract, the COUNTY determines that VENDOR has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the COUNTY, the VENDOR may be terminated from the RFP process or in the event an Contract has been awarded, the Contract may be immediately terminated.

In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.

Employment of Former County Officials

Vendor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Vendor. The information provided includes a list of former County Administrative Officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Vendor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

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Recycled Paper Products

The County has adopted a recycled product purchasing standards policy (11-10), which requires Vendors to use recycled paper for proposals and for any printed or photocopied material created as a result of a contract with the County. The policy also requires Vendors to use both sides of paper sheets for reports submitted to the County whenever practicable

Artwork, Proofs and/or Negatives

All artwork, proofs and/or negatives in either print or digital format for this product are the property of the County of San Bernardino. These items must be returned to the County of San Bernardino within ten- (10) days, upon written notification to the Vendor. In the event of a failure to return the documents, the County is entitled to pursue any available legal remedies. In addition, the Vendor will be barred from all future solicitations, for a period of at least six (6) months.

Invoices

Vendor shall bill the County at the end of each month of the contract on separate invoices for each County department or location.

Each invoice shall have attached consolidated certified time sheet(s) showing exact amounts of daily times each temporary help person worked.

The County's standard payment terms are net 30 days.

Price Guarantee and Price Escalation

All prices will be considered firm for the entire period of the contract unless otherwise stated (see Attachment I Position/Price Sheet).

Should the minimum wages, social security, state disability, workman's comp, or SUI increase, the right is reserved to Vendor to adjust prices accordingly in accordance with the policies and procedures stated herein.

Written request and substitution of cost increases must be submitted to the County at least thirty (30) days in advance of any price adjustment to the contract.

No retroactive price adjustments shall be permitted.

In the event a request for a price adjustment is submitted, the County shall have the discretion to take various actions, including but not limited to the following:

- a. Accept the price adjustments and continue performance of the contract through the initial term.
- b. Negotiate price adjustments with the Vendor.
- c. Terminate the contract prior to the completion of the initial term of the contract.

No price adjustments shall be effective without prior written approval of the County.

Price adjustments shall be based upon the individual's rate of pay; not the percentage of markup.

County Hours

Some County departments adopted hours other than the 8:00 a.m. to 5:00 p.m. standard. These departments will notify vendor of the modified work schedule to allow proper billing. Such modified 40-hour workweek will NOT result in overtime billing.

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Mileage

Mileage, when requested and authorized in advance by the department, shall be reimbursed at the current COUNTY rate. At the present time, the current COUNTY mileage rate is \$0.375 per mile.

Participation

The County desires that Municipalities, School Districts, and other Tax Districts within the County of San Bernardino requiring temporary help may at their option and through the County Purchasing Agent, avail themselves of the contract resulting from this proposal. Upon notice in writing, the Vendor agrees to the extension of the terms of a resultant contract with such Governmental bodies as though they have been expressly identified in this proposal, with the provision that:

- a. Such Governmental body does not have and will not have in force any other contract for like services.
- b. Such Governmental body does not have under consideration for award any other proposals or quotations for like services.
- c. Such Governmental body shall make arrangements for services through the Vendor, and make payment directly to the Vendor.

Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Vendor pursuant to the Contract shall be considered property of the COUNTY upon payment for services. All such items shall be delivered to COUNTY at the completion of work under the Contract, subject to the requirements of Section III - Termination for Convenience. Unless otherwise directed by County, Vendor may retain copies of such items.

Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Vendor's relationship with County may be made or used without prior written approval of the County.

Disclosure of Criminal and Civil Proceedings

The County reserves the right to request the information described herein from the vendor selected for contract award. Failure to provide the information may result in a disqualification from the selection process and no award of contract to the vendor. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected vendor also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of contract.

The selected vendor may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the vendor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the selected vendor may also be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the vendor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the county. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

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Indemnification

Vendor shall defend, indemnify and hold County, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Vendor, its officers, employees, and agents.

County shall defend, indemnify and hold Vendor, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent acts or omissions of County, its officers, employees, and agents.

In the event that Vendor or County is found to be comparatively at fault for any claim, action, loss or damage, which results from their respective obligations under this Agreement, the Vendor and/or County shall indemnify the other to the extent of its comparative fault.

Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release either party from its indemnification obligations hereunder as to any claim or cause of action asserted so long as the event upon which such claim of action is predicted shall have occurred prior to the effective date of any such termination or completion.

Insurance

Without in any way affecting the indemnity herein provided and in addition thereto the Vendor shall secure and maintain throughout this Agreement the following types of insurance with limits as shown:

Workers' Compensation - A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount or form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Vendor and all risks to such persons under this Agreement.

Comprehensive General and Automobile Liability Insurance – This coverage to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than \$1,000,000.

Errors and Omissions Liability Insurance – Combined single limits of \$1,000,000 for bodily injury and property damage and \$3,000,000 in the aggregate or

Professional Liability – Professional liability insurance with limits of at least \$1,000,000 per claim or occurrence.

Additional Named Insured – All policies, except for Workers' Compensation, Errors and Omissions and Professional Liability policies shall name the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

Waiver of Subrogation Rights – Vendor shall require the carrier of worker's compensation and general liability to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.

Policies Primary and Non-Contributory – All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

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Proof of Coverage – Vendor shall immediately furnish certificates of insurance to the County Department administering the contract evidencing the insurance coverage above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expired without thirty (30) days written notice to the Department, and Vendor shall maintain such insurance from the time Vendor commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Vendor shall furnish certified copies of the policies ..

Insurance Review – The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurances is not available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonable priced available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Vendor agrees to execute any such amendment within thirty (30) days of receipt.

Right to Monitor and Audit

The COUNTY, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of VENDOR in the delivery of services provided under this Agreement. VENDOR shall give full cooperation, in any auditing or monitoring conducted. VENDOR shall cooperate with the COUNTY in the implementation, monitoring and evaluation of this agreement and comply with any and all reporting requirements established by the COUNTY.

Availability of Records

All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by COUNTY representatives for a period of three years after final payment under the Agreement or until all pending COUNTY, State and Federal audits are completed, whichever is later.

Status of Parties

The parties hereby expressly understand and agree that this Agreement is not intended and shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture, or association between Vendor and County but is rather an Agreement by and between independent contractors.

The parties hereby expressly understand and agree that their employees, agents, and independent contractors are not the employees or agents of the other party for any purpose, including, but not limited to, compensation for services, employee welfare and pension benefits, other fringe benefits of employment, or workers' compensation insurance.

Modification

No modification, amendment, supplement to or waiver of any provision of this Agreement shall be binding upon the parties unless made in writing and duly signed by all parties.

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Severability

The provisions of this Agreement are specifically made severable. If any clause, provision, right and/or remedy provided herein are unenforceable or inoperative, the remainder of this Agreement shall be enforced as if such clause, provision, right and/or remedy were not contained herein.

Alternative Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

Notices

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and personally delivered to the other party or deposited in the United States mail, certified with return receipt requested and postage prepaid, and addressed to the other party as follows:

County of San Bernardino- Purchasing Department
Attention: Allen Sanchez, Contracts Analyst
777 East Rialto Avenue
San Bernardino, CA 92415-0760

Leslie Pellegrine, Branch Manager
Kelly Services, INC.
1950 S. Sunwest Lane, Suite 104
San Bernardino, CA 92408

Entire Agreement

This Agreement contains the final, complete and exclusive Agreement between the parties hereto. Any prior Agreement promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

COUNTY OF SAN BERNARDINO

►
Dennis Hansberger, Chairman, Board of Supervisors

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
of the County of San Bernardino.

By _____
Deputy

KELLY SERVICES, INC.
(Print or type name of corporation, company, contractor, etc.)

By ►
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address 1950 S Sunwest Lane, Suite 104
San Bernardino, CA 92408

Approved as to Legal Form

►
County Counsel

Date _____

Reviewed by Contract Compliance

►

Date _____

Presented to BOS for Signature

►
Department Head

Date _____

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